

**WAUKESHA COUNTY BOARD OF ADJUSTMENT
SUMMARY OF MEETING
OCTOBER 13, 2004**

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, October 13, 2004, at 6:30 p.m. in Room 255/259 of the Waukesha County Administration Center, 1320 Pewaukee Road, Waukesha County Wisconsin, 53188.

BOARD MEMBERS PRESENT: James Ward, Chairman
Robert Bartholomew
Paul Schultz
Walter Tarmann
Walter Schmidt

SECRETARY TO THE BOARD: Peggy S. Pelikan

OTHERS PRESENT: Bruce Berger, BA04:073, petitioner
Mike Millikin, BA04:076, petitioner
Michael & Sue Rudd, BA04:076, owners
Bob Guss, BA04:076, neighbor
Andrea Mau, BA04:077, petitioner
Anthony Mau, BA04:077, petitioner's son
Vinnie Elazi, BA04:077, friend of petitioner

The following is a record of the motions and decisions made by the Board of Adjustment. Detailed minutes of these proceedings are not produced, however, a taped record of the meeting is kept on file in the office of the Waukesha County Department of Parks and Land Use, and a taped copy or transcript is available, at cost, upon request.

SUMMARIES OF PREVIOUS MEETINGS:

Mr. Tarmann *I make a motion to approve the Summary of the Meeting of September 22, 2004.*

The motion was seconded by Mr. Schmidt and carried unanimously.

NEW BUSINESS:

BA04:073 BRUCE BERGER

Mr. Bartholomew *I make a motion to approve the staff's recommendation, as stated in the Staff Report, for the reasons stated in the Staff Report with the addition of the following condition:*

- 1. The lean-to structure on the back of the 200 sq. ft. shed must be removed prior to the issuance of a zoning permit for the overhang.*

The motion was seconded by Mr. Schmidt and carried unanimously.

The staff's recommendation was for **approval** of the request for variances from the road setback and floor area ratio requirements and a special exception from the offset requirements.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The approved request for a special exception from the offset requirements will allow after-the-fact approval for an overhang that was constructed on the roadside of the residence. The overhang is no closer to the north lot line than the existing residence. The overhang only slightly increases the total floor area ratio on the property and the overhang does not extend any closer to the road than the previously existing overhang. The approval of this request, as recommended, is not contrary to the public interest. Therefore, the approval of this request is in conformance with the purpose and intent of the Ordinance.

BA04:075 RICHARD KIPP – OWNER
ROBERT ROWLANDS – Petitioner

Mr. Bartholomew *I make a motion to hold the hearing in abeyance until October 27th, 2004, per the petitioner's request.*

The motion was seconded by Mr. Tarmann and carried unanimously.

The staff's recommendation was for **approval**, with the following conditions:

1. A Letter of Credit must be filed with the Waukesha County Planning and Zoning Division Staff, prior to the demolition of the existing residence, to ensure that a new home is constructed on the property or the accessory structures be removed within two (2) years of this decision.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The approved request for a variance, with the recommended conditions, will allow the petitioner to remove the existing residence from the property and retain the existing accessory buildings. The Letter of Credit will ensure that a new home is constructed on the property or that the accessory structures will be removed within two years. The approval of this request, as recommended, is not contrary to the public interest. Therefore, the approval of this request, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

BA04:076 MICHAEL AND SUE RUDD – OWNERS
MILLIKIN HOMES, INC. - Petitioner

Mr. Bartholomew *I make a motion to approve the staff's recommendation, as stated in the Staff Report, for the reasons stated in the Staff Report*

The motion was seconded by Mr. Ward and carried unanimously.

The staff's recommendation was for **approval** of the request for variances from the offset and floor area ratio requirements.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The approved request for variance will allow after-the-fact approval for an overhang that was constructed on the west side of the residence. The petitioners would be permitted a 2 ft. overhang as close as 5 ft. from the property line without the need for a special exception or a variance. The residence on the adjacent property to the west is much closer to the lake than the subject residence and will not be adversely affected by the overhang. Based on the Jeffrey Allen case, (BA95:145) the petitioners were allowed to exceed floor area ratio because the property is a non-conforming legal lot of record; the overhang only slightly increases the total, previously approved, floor area ratio on the property. Therefore, the approval of this request is in conformance with the purpose and intent of the Ordinance.

BA04:077 ANDREA MAU

Mr. Schmidt

I make a motion to approve the staff's recommendation, as stated in the Staff Report, for the reasons stated in the Staff Report with the removal of the last two sentences of the reasons and the second sentence of the reasons to read as follows:

"The accessory building floor area ratio limit of 3% of the lot size, which in this case permits a total accessory building floor area of 2,029 sq. ft., allows for the construction of a large accessory structure more compatible with the adjacent development and provides the petitioner with a reasonable use of the property. Therefore, varying the accessory building floor area ratio requirement would not be in conformance with the purpose and intent of the Ordinance."

The motion was seconded by Mr. Schultz and carried unanimously.

The staff's recommendation was for **denial** of the request for a special exception from the accessory building floor area ratio requirements.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The accessory building floor area ratio limit of 3% of the lot size, which in this case permits a total accessory building floor area of 2,029 sq. ft., allows a reasonable use of the property and varying that requirement would not be in conformance with the purpose and intent of the Ordinance. In addition, the size of the proposed structure is not consistent with the overall development in the area. Therefore, the approval of this request would not be in conformance with the purpose and intent of the Ordinance.

OTHER ITEMS REQUIRING BOARD ACTION:

BA03:004 MICHAEL AND STACY KNOEBEL

Mr. Schultz

I make a motion to revise the first sentence of Condition No. 1 to read as follows:

“A Declaration of Restrictions shall be prepared by the Planning and Zoning Division staff stating that no additional additions can be made to the residence or the garage on the property without first tearing down the addition to the garage.”

In addition, the Board of Adjustment recommends that the petitioner apply for any necessary variances for the retaining walls constructed without permits. If the Waukesha County Land Resources Division indicates that the retaining walls are necessary for erosion control, a letter shall be provided to the Board of Adjustment from the Planning and Zoning Division Staff stating as such. If the Land Resources Division does not deem the walls necessary and the petitioner does not remove the walls or apply for the necessary variances, the matter shall be referred to the Waukesha County Corporation Counsel for legal action.

The motion was seconded by Mr. Bartholomew and carried unanimously with three yes votes. It should be noted that Mr. Tarmann and Mr. Schmidt did not vote on this matter because they were not members of the Board of Adjustment at the time of the Public Hearing regarding this matter.

DISCUSSION OF POLICIES AND PROCEDURES:

A copy of the “Guide for County Board of Adjustments” provided by Atty. Deborah Price, Waukesha County Principal Assistant Corporation Counsel was distributed to the Board of Adjustment members for their review, per their request. The Board then requested that discussion of the guide be placed on the agenda for the November Board of Adjustment meeting.

ADJOURNMENT:

Mr. Bartholomew

I make a motion to adjourn this meeting at 7:45 p.m.

The motion was seconded by Mr. Schultz and carried unanimously.

Respectfully submitted,

Peggy S. Pelikan
Secretary, Board of Adjustment